IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
SECOND APPEAL NO.700 OF 2007

Gajanan Anant More ...Appellant

vs.

Prakash Tukaram Phage & Ors. ...Respondents

Ms Anjali Helekar for the Appellant
Mr.Pravin Singh for Respondent Nos.1 to 5.

CORAM: A.S.OKA,J.
DATE : DECEMBER 13,2007.

P.C.:

1. Heard learned Advocate appearing for the Appellant. The learned Advocate for the Appellant on instructions of the Appellant states that the Appellant is not pressing the Appeal on merits. She, however, submitted that considering the fact that the Appellant does not have the protection of Rent Control legislation and considering the fact that the Appellant has been in possession of the suit premises for a considerable long time, time of three years to vacate the suit premises may be granted. She states that the undertaking of the Appellant and other adult members of his family to vacate the suit premises is kept ready.

2. The learned Advocate for the Respondent Nos.1 to 5 opposes the prayer for grant of longer time to vacate. He submitted that as the Respondent Nos.1 to 5 have succeeded in both the courts, they cannot be deprived of fruits of the decree. He

submitted that the prayer for grant of longer time to vacate the suit premises be rejected.

3. I have considered the submissions. The Appellant is not pressing the Appeal on merits. Therefore the decree for possession will attain finality. If this Appeal was to remain pending in this court for final disposal, considering the fact that the Second Appeals of the year 1985 onwards are awaiting the final hearing, the present Appeal of the year 2007 would not have reached its turn for final hearing for several years.

4. Now, the Appellant is not pressing the Appeal on merits. Therefore, litigation will come to an end. Moreover, the Appellant is not protected under the Rent control legislation. The case of the Appellant of permanent lease is discarded on the ground that the said document is not admissible in evidence for want of registration. Considering the aforesaid facts, time to vacate the suit premises deserves to be granted till 31st December 2010.

5. Hence, I pass the following order :

i) Second Appeal is dismissed with no order as to costs.

ii) Notwithstanding the dismissal of the Appeal, the decree for possession shall not be executed till 31st December 2010.

iii) The undertaking of the Appellant and of the adult members of his family is taken on record and is marked ‘X’ for identification. Undertaking is accepted.

iv) The concerned Court will permit the original plaintiffs to withdraw the amounts deposited by the Appellant in terms of the undertaking.

v) In case the Appellant or any member of his family commits breach of the said undertaking, liberty to the Respondents to apply for appropriate relief.

vi) Parties and the concerned Court to act upon an authenticated copy of this order.

JUDGE